



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket No. USCG-2022-0892]

RIN 1625-AA09

Drawbridge Operation Regulation: Housatonic River, Stratford, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is temporarily modifying the operating schedule that governs the US 1 Bridge across the Housatonic River, mile 3.5, at Stratford, CT. This action is necessary to allow for an unexpected delay in construction material delivery related to the COVID-19 pandemic. This temporary final rule is necessary to allow the bridge owner to complete the remaining replacements and repairs.

**DATES:** This temporary final rule is effective from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through 12:01 a.m. on July 1, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type the docket number (USCG-2022-0892) in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or e-mail Stephanie E. Lopez, Coast Guard Bridge Management Specialist; telephone (212) 514-4335, e-mail [Stephanie.E.Lopez@uscg.mil](mailto:Stephanie.E.Lopez@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

|         |                                 |
|---------|---------------------------------|
| CFR     | Code of Federal Regulations     |
| DHS     | Department of Homeland Security |
| FR      | <b>Federal Register</b>         |
| TFR     | Temporary Final Rule            |
| OMB     | Office of Management and Budget |
| Pub. L. | Public Law                      |
| §       | Section                         |
| U.S.C.  | United States Code              |

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is unnecessary.

On 19 April 2021, the Coast Guard issued a General Deviation which allowed the bridge owner to deviate from the current operating schedule in 33 CFR 117.207(a) to repair the bridge. This deviation letter can be found in this Docket as supporting documentation. Due to delays in procuring materials, the project ran past the approved deviation. The work cannot stop and needs to continue in order to bring the bridge back to normal operation. Therefore, there is lack of sufficient time to provide a reasonable comment period and then consider those comments before issuing the modification.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. For reasons presented above, delaying the effective date of this rule would be impracticable and contrary to the public interest given the need to complete repairs to the bridge which are already underway and preventing full operation.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499. The Coast Guard is modifying the operating schedule that governs the US 1 Bridge across the Housatonic River, mile 3.5, Stratford, Connecticut. The US 1 Bridge has a vertical clearance in the closed position of 32 feet at mean high water.

The existing drawbridge regulation is listed at 33 CFR 117.207(a). The Connecticut Department of Transportation, the bridge owner, has requested this modification as additional time is required to complete the bridge rehabilitation.

The waterway is transited by seasonal recreational traffic as well as commercial fishing charters. Coordination with known waterway users has indicated no objection to the proposed schedule of the draw. During the temporary final rule the bridge will be operating under single leaf operations. Mariners can transit through the operating leaf.

### **IV. Discussion of the Rule**

The Coast Guard is issuing this rule, which permits a temporary deviation from the operating schedule that governs the US 1 Bridge across the Housatonic River, mile 3.5, Stratford, Connecticut. The rule is necessary to accommodate the completion of the bridge rehabilitation. This rule allows the bridge to operate under single leaf openings from November 30, 2022 until June 30, 2023.

### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant

regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge through the alternate operating leaf.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The

Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### *D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management

Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Stay §117.207(a) from 12:01 a.m. [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through 12:01 a.m. on July 1, 2023.

3. Amend § 117.207, by adding temporary paragraphs (a)(1) and reserved paragraph (a)(2) to read as follows:

§ 117.207 Housatonic River.

(a)\*\*\*

- (1) The draw shall operate on single leaf operations from November 30, 2022 to June 30,

2023.

(2) [Reserved]

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Dated: March 13, 2023.

J. W. Mauger,  
Rear Admiral, U.S. Coast Guard,  
Commander, First Coast Guard District.

[FR Doc. 2023-05428 Filed: 3/20/2023 8:45 am; Publication Date: 3/21/2023]